

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS MATJE,

Plaintiff,

Case No. 13-cv-14791

Hon. Matthew F. Leitman

v.

MR. ZESTOS, Medical Director,
et al.,

Defendants.

**ORDER (1) GRANTING DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT (ECF #40) AND (2) DENYING PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT (ECF #42)**

Plaintiff Thomas L. Matje ("Matje"), an inmate in the custody of the Federal Bureau of Prisons, has filed a pro se civil action pursuant to *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971), against three defendants: James Zestos ("Zestos"), Dr. William Malatinsky ("Malatinsky") and S. Gidell ("Gidell"). (*See* Compl. and Am. Compl., ECF ## 1, 17.) Before the Court now are Defendants Zestos and Malatinsky's Motion for Summary Judgment ("Defendants' Motion") and Matje's Motion for Summary Judgment ("Plaintiff's Motion").

On February 13, 2017, the assigned Magistrate Judge issued a Report and Recommendation recommending that the Court grant Defendants' Motion and

deny Plaintiff's Motion (the "R&R"). (*See* ECF #53.) At the conclusion of the R&R, the Magistrate Judge informed the parties that if they wanted to seek review of his recommendation, they needed to file specific objections with the Court within fourteen days. (*See id.* at 10-11, Pg. ID 405-06.) Thus, objections to the R & R were originally due, at the latest, on or about March 3, 2017.

In a motion dated March 4, 2017 (and received by the Court on March 9, 2017), Matje requested an extension of time to file his objections. (ECF # 56.) Matje explained that he received the objections at his home on March 1, 2017, and that he needed more time to respond. (*Id.*) By order dated March 10, 2017, the Court granted Matje additional time. (ECF # 57.) The Court set March 20, 2017, as the new due date for Matje's objections. (*Id.*) The new date gave Matje twenty days from the date he received the R & R (March 1) to file his objections. Thus, the Court not only extended the deadline for Matje's objections, but it also gave Matje an additional six extra days of work time (beyond the fourteen days permitted under the Local Rules) to prepare his objections. It is now March 29, 2017, and Matje has still not filed objections to the R & R even though he has had it for twenty-nine days.

The failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Likewise, the failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). The Court has nonetheless reviewed the R & R and finds it to be well-reasoned and correct.

Accordingly, because (1) the Court agrees with the reasoning and result of the R & R and (2) Matje has failed to file any objections to the R&R, **IT IS HEREBY ORDERED** that the R & R is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that (1) Defendant's Motion for Summary Judgment (ECF #40) is **GRANTED** and (2) Plaintiff's Motion for Summary Judgment (ECF #42) is **DENIED**.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: March 29, 2017

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 29, 2017, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113